



## **CITY OF SALINAS COUNCIL STAFF REPORT**

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**DATE:** NOVEMBER 6, 2018

**DEPARTMENT:** COMMUNITY DEVELOPMENT

**FROM:** MEGAN HUNTER, DIRECTOR

**TITLE:** AN ORDINANCE AMENDING CHAPTER 9 OF THE SALINAS MUNICIPAL CODE (BUILDING) TO MODIFY THE TIMING OF PAYMENT OF DEVELOPMENT IMPACT FEES FROM BUILDING PERMIT ISSUANCE TO CERTIFICATE OF OCCUPANCY FOR RESIDENTIAL PROJECTS

**RECOMMENDED MOTION:**

A motion to adopt the attached ordinance amending Chapter 9 of the Salinas Municipal Code (Building) to modify the timing of payment of development impact fees from building permit issuance to certificate of occupancy for residential projects.

**RECOMMENDATION:**

Staff recommends that the City Council adopt the attached ordinance amending Chapter 9 of the Salinas Municipal Code (Building) to modify the timing of payment of development impact fees from building permit issuance to certificate of occupancy for residential projects.

**EXECUTIVE SUMMARY:**

As noted in the 2015-2023 Housing Element, Salinas's residents are facing increasing challenges affording housing. The Housing Element identified that 77% of Salinas households are experiencing significant cost burdens, defined as gross housing costs exceeding 30% of gross household income. These conditions have only grown worse, as lack of units helped push up rents between 2015 and 2016 by almost 20%. Although the City has substantially invested its HUD funding into housing production, only 78 affordable and moderate housing units were developed in 2017. This lack of housing development has spurred Community Development Department (CDD) Staff to evaluate policies and regulations needed to facilitate construction of units. One such policy is delaying collection of development impact fees to certificate of occupancy.

The Monterey Bay Economic Partnership's White Paper on Policy Changes that Could Improve Housing Affordability in the Monterey Bay Region recommended a change in timing of payment of development impact fees to substantially reduce cost and risk. Paying fees during the most speculative stages of a project's development and then financing fees throughout multiple years of a project's development and construction adds measurably to the cost. In contrast, the City is less impacted by the delay in collection of fees because typically money for public facilities has to

build up before the City can expend funds for capital improvements. This is especially true today as the City's capacity is limited due to the significant number of projects already under development through Measure X. Thus, this modest amendment to Chapter 9 effectively balances the need to facilitate housing production with that of recovering fees to defray costs of public facilities related to new development.

#### BACKGROUND:

California Government Code Sections 66000-66008, also known as the Mitigation Fee Act, provides local jurisdictions the authority to impose fees as a condition of approval of a development project to defray all or a portion of the cost of public facilities related to the project. The Mitigation Fee Act broadly defines public facilities to include public improvements, public services, and community amenities. Although not specifically addressed in the Act, other provisions of the Government Code prohibit the use of impact fees for maintenance or operating costs. The Act also contains specific requirements for establishing, increasing, and imposing impact fees, as well as for the collection and expenditure of those fees, and required annual reporting and periodic re-evaluation of the fee program.

City Council last amended the Sections on Development Impact Fees in Chapter 9 – Building in April of 2014. At that time, the most substantive change was the addition of Article V-D on Public Facilities Impact Fees. The proposed modification to timing of payment of development impact fees for residential projects is the first change to related provisions in Chapter 9 since 2014. A public hearing notice regarding this change was published in the Monterey Herald on October 22<sup>nd</sup> and October 31<sup>st</sup>.

#### DISCUSSION:

California Government Code §§ 66000-66008, also known as the Mitigation Fee Act, provides local jurisdictions the authority to impose fees to defray all or part of the cost of public facilities related to new development. Although recovering these fees is critical to the City's financial sustainability, it can also increase the costs of housing and reduce supply. Given Salinas' slow progress in achieving our Regional Housing Needs Allocation (RHNA) with only two hundred and twenty-four units since 2015, Community Development Department (CDD) Staff began to evaluate our housing policies.

On March 20, 2018, the Monterey Bay Economic Partnership presented a report to the City Council on "What Realistic Policy Changes Could Improve Housing Affordability in the Monterey Bay Region". This report recommended that cities delay the collection of development impact fees to certificate of occupancy instead of at building issuance. CDD Staff evaluated this recommendation and discovered that timing of payment at building permit issuance can constrain housing development by requiring upfront payment of fees before permanent financing is in place. In fact, there is a growing trend among cities to delay timing of payment of development impact fees for housing projects. Numerous cities in Northern California such as Santa Rosa, Livermore, Berkeley, and Mountain View already collect these impact fees at final inspection or issuance of certificate of occupancy. In an effort to stimulate housing production, CDD Staff presented a potential amendment to Chapter 9 to the Housing and CDBG Subcommittee of City Council on

October 17, 2018. The Subcommittee encouraged staff to bring this item to full City Council for consideration.

The proposed modifications to the ordinance merely delay the timing for collection of development impact fees and only apply to residential projects. No other change related to these development impact fees is proposed at this time. City staff will continue to monitor how development impact fees affect housing production and may propose future changes to this Chapter.

#### DEPARTMENT COORDINATION:

The Community Development Department (CDD) has coordinated this proposal among the Housing, Current Planning, and Project and Plan Implementation Divisions. The timing change for the collection of development impact fees was discussed with the SCCIA and other downtown property owners, particularly as it relates to future adaptive reuse projects. The Legal Department was helpful in guiding staff to the appropriate Chapter of the Salinas Municipal Code that required modification. CDD Staff also was able to coordinate with the Public Works and Finance Departments and the City Manager's Office on this policy change and present it to the Housing and CDBG Subcommittee of City Council on October 17<sup>th</sup>.

#### CEQA CONSIDERATION:

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The adoption of this Ordinance involving a change to the timing of development impact fee payment is "Not a Project" under CEQA Guidelines Section 15378.

#### STRATEGIC PLAN INITIATIVE:

The proposed Ordinance supports City Council's goal of Economic Diversity and Prosperity and Well-Planned City and Excellent Infrastructure by balancing the need to facilitate housing production with that of recovering fees to defray costs of public facilities related to new development.

#### FISCAL AND SUSTAINABILITY IMPACT:

No significant impact to the City's General Fund is anticipated with the proposed Ordinance. The City would still collect the same development impact fees, but the timing would be delayed generally by roughly 2 years. The timing for collection of these fees, only applies to residential development.

#### ATTACHMENTS:

- Draft Ordinance
- Monterey Bay Economic Partnership's White Paper – "What Realistic Policy Changes Could Improve Housing Affordability in the Monterey Bay Region"
- Hearing Notice